

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

831Q0015

### SENATE BILL NO. 1

Introduced by: Senators Hansen (Tom), Howie, and Maher and Representatives Brunner, Juhnke, Olson (Betty), and Vanneman at the request of the Department of Game, Fish and Parks Agency Review Committee

1 FOR AN ACT ENTITLED, An Act to clarify, repeal, update, and make form and style revisions  
2 to certain statutes related to the Department of Game, Fish and Parks.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 41-1-2 be amended to read as follows:

5 41-1-2. No person ~~shall at any time or in any manner~~ may acquire any property in, or subject  
6 to ~~his~~ dominion or control, any game bird, game animal, or game fish, or any part thereof, ~~but~~  
7 ~~they shall always and under all circumstances be and remain.~~ Game birds, game animals, and  
8 game fish are the property of the state, except as provided by § 41-1-3.

9 Section 2. That § 41-1-3 be amended to read as follows:

10 41-1-3. ~~By killing, catching, or taking~~ Any person who kills, catches, or takes any game bird,  
11 game animal, or game fish in the manner provided by law or ~~regulations prescribed~~ rules  
12 promulgated by the Game, Fish and Parks Commission ~~and,~~ for the purposes authorized by law,  
13 and during the periods when their killing is not prohibited, ~~the same may be used by any person~~  
14 may use the game bird, game animal, or game fish during the time, in the manner, and for the



1 purposes expressly authorized by law.

2 Section 3. That § 41-1-5 be amended to read as follows:

3 41-1-5. ~~Whenever any person~~ Any person who kills, catches, takes, ships, ~~or has in~~  
4 ~~possession or under his control~~ possesses, or controls any game bird, game animal, or game fish,  
5 or any part thereof ~~of any such bird, animal, or fish~~, at any time or in any manner prohibited by  
6 law, ~~such person shall thereby forfeit and lose all his right to the use and possession of any such~~  
7 thereby forfeits any right to use or possess the bird, animal, or fish, or any part thereof, ~~and the~~  
8 ~~state shall be. The state is~~ entitled to the sole possession ~~thereof~~ of the bird, animal, or fish.

9 Section 4. That § 41-2-1.2 be amended to read as follows:

10 41-2-1.2. The Game, Fish and Parks Commission ~~shall be~~ is administered under the  
11 direction and supervision of the Department of Game, Fish and Parks and the secretary ~~thereof~~,  
12 ~~but shall retain~~ of game, fish and parks. However, the commission retains the quasi-judicial,  
13 quasi-legislative, advisory, other nonadministrative and special budgetary functions (as defined  
14 in § 1-32-1) otherwise vested in it and shall exercise those functions independently of the  
15 secretary of game, fish and parks.

16 Section 5. That § 41-2-2 be amended to read as follows:

17 41-2-2. Not more than four of the game, fish and parks commissioners ~~shall~~ may be  
18 members of the same political party, and, at the time of their appointment, ~~not less than~~ at least  
19 four shall be farmers actually residing on a farm, engaged in agriculture, deriving at least  
20 two-thirds of their gross annual incomes from crop or livestock production or both, and  
21 interested in wildlife conservation. At the time of their appointment ~~not less than~~ three  
22 commissioners shall reside west of the Missouri River and ~~not less than~~ five shall reside east  
23 of the Missouri River.

24 Section 6. That § 41-2-3 be amended to read as follows:

1 41-2-3. The term of office of the game, fish and parks commissioners ~~shall be~~ is four years.

2 The Governor ~~is authorized to and~~ shall preserve:

3 (1) An arrangement of length of terms whereby two members ~~shall~~ have terms expiring  
4 each year;

5 (2) A rotation of terms between the republican and democratic parties.

6 The expiration of terms ~~shall occur~~ occurs on the tenth day of January of each year, and all  
7 required appointments ~~may~~ shall be made by the first day of March ~~thereof, and shall be so~~  
8 ~~made as to.~~ The appointments shall fill all vacancies on ~~such~~ the commission arising either by  
9 expiration of term or from any other cause. No person ~~shall~~ may serve on ~~said~~ the commission  
10 for more than eight years, ~~except that where his.~~ However, if the person's first appointment is  
11 for two years ~~he~~ the person may be reappointed thereafter for ~~an additional~~ no more than two  
12 additional four-year terms.

13 Section 7. That § 41-2-4 be amended to read as follows:

14 41-2-4. Each game, fish and parks commissioner shall qualify by taking the oath of office  
15 prescribed by S.D. Const., Art. XXI, § 3 ~~and.~~ The commissioner shall give bond to the state in  
16 the penal sum of five thousand dollars conditioned upon the faithful discharge of ~~his~~ the duties  
17 of the office, and ~~file same~~ shall file the bond with the secretary of state.

18 Section 8. That § 41-2-5 be amended to read as follows:

19 41-2-5. The Governor may remove a game, fish and parks commissioner for inefficiency,  
20 neglect of duty, or misconduct in office after giving ~~him~~ the commissioner a copy of the charges  
21 against ~~him~~ the commissioner and opportunity to be heard publicly in person or by counsel in  
22 his or her own defense, upon not less than ten days' notice. If ~~such~~ the commissioner ~~shall be~~  
23 is removed, the Governor shall file in the Office of the Secretary of State a complete statement  
24 of all charges made against ~~such~~ the commissioner and his or her findings ~~thereon~~ on the

1 charges, together with a complete record of the proceedings.

2 Section 9. That § 41-2-8 be amended to read as follows:

3 41-2-8. The Game, Fish and Parks Commission shall ~~meet and hold their~~ hold its annual  
4 meeting at the ~~capitol~~ capital to elect a ~~chairman and vice-chairman~~ chair and vice chair for the  
5 ensuing year, and to transact such other business as may properly come before the meeting, ~~and~~  
6 ~~additional.~~ Additional meetings may be held ~~from time to time at such time and places as may~~  
7 ~~be as~~ as determined by the commission.

8 Section 10. That § 41-2-11 be amended to read as follows:

9 41-2-11. The Department of Game, Fish and Parks ~~shall have authority to~~ may employ an  
10 adequate force of conservation officers to enforce the provisions of this title. Conservation  
11 officers shall meet requirements as to education and training of law enforcement officers  
12 provided pursuant to chapter 23-3. The provisions of chapter 3-6A ~~shall~~ apply to conservation  
13 officers so employed.

14 Section 11. That § 41-2-13 be repealed.

15 ~~—41-2-13. All rangers and park managers employed by the department shall be conservation~~  
16 ~~officers without additional compensation. If the emergency exists, the Department of Game,~~  
17 ~~Fish and Parks may appoint additional conservation officers who shall serve without additional~~  
18 ~~compensation and shall have all the powers of other conservation officers.~~

19 Section 12. That § 41-2-19 be amended to read as follows:

20 41-2-19. The Department of Game, Fish and Parks ~~shall have the power~~ may, on behalf and  
21 in the name of the state, ~~to~~ acquire public or private property by gift, grant, devise, purchase,  
22 lease, or condemnation proceedings, and ~~to~~ may manage, control, and improve the ~~same~~  
23 property for the purpose of exercising the powers granted in this title.

24 Section 13. That § 41-2-20 be amended to read as follows:

1       41-2-20. Any personal property or buildings or fixtures on real estate, acquired pursuant to  
2       § 41-2-19, may be sold by the Game, Fish and Parks Commission ~~when, in its opinion, it shall~~  
3       ~~become~~ if the commission determines it to be obsolete or no longer useful. The property shall  
4       be sold according to procedures prescribed by the commissioner of the Bureau of  
5       Administration.

6       Section 14. That § 41-2-21 be amended to read as follows:

7       41-2-21. The Department of Game, Fish and Parks ~~shall have the power to~~ may acquire by  
8       any means or methods as specified in § 41-2-19; any public or private real property especially  
9       desirable for purposes of establishing public shooting areas or for the purposes of water  
10      conservation or recreation and ~~to~~ may develop and improve the ~~same for the purposes herein~~  
11      ~~stated~~ property for such purposes.

12      Section 15. That § 41-2-23 be amended to read as follows:

13      41-2-23. The Department of Game, Fish and Parks ~~shall have the power and duty, when, if~~  
14      directed by the Game, Fish and Parks Commission, ~~to~~ expend funds for the improvement of  
15      wildlife habitat, access to hunting, and access to fishing or recreation areas on any land, public  
16      or private, within the state, notwithstanding the provisions of § 5-14-10, ~~provided, however, that~~  
17      ~~any.~~ Any land so improved ~~shall be~~ is open to reasonable use by the public.

18      Section 16. That § 41-2-24 be amended to read as follows:

19      41-2-24. The Department of Game, Fish and Parks ~~shall have the power and duty to~~ acquire  
20      by gift, purchase, lease, or condemnation; and shall improve and manage ~~other~~ land areas  
21      suitable for park purposes in various portions of the state so that a comprehensive state park  
22      system may be established; ~~to.~~ The department may levy and collect ~~such~~ service fees for the  
23      use of the facilities in the state parks, upon the conditions as provided in this title; ~~to.~~ The  
24      department may issue its negotiable bonds for such purposes, and in such amounts, forms and

1 upon such conditions as provided in this title; ~~and to.~~ The department may cooperate with the  
2 United States, ~~any agency thereof~~ with any agency of the United States, and with any other  
3 department or public corporation of this state in such park activities.

4 Section 17. That § 41-2-25 be amended to read as follows:

5 41-2-25. The Department of Game, Fish and Parks shall ~~have the power and duty to~~ make  
6 capital improvements on all leased lands owned by the United States government and the State  
7 of South Dakota ~~which~~ that the Game, Fish and Parks Commission deems necessary or proper  
8 for the extension, improvement, or development of state parks and recreation areas; ~~provided,~~  
9 ~~however, that.~~ However, the capital expenditures for such capital improvements on leased lands,  
10 other than those owned by the United States government or State of South Dakota, ~~shall~~ may  
11 not exceed the sum of one thousand five hundred dollars for any leased area upon which  
12 twenty-five years or less remain on ~~such lease, provided that no~~ the lease. No capital  
13 expenditures may be made on leased lands for the purposes of this title ~~which~~ that lie within the  
14 boundaries of the Black Hills Fire Protection District. ~~This authority shall be~~ The authority  
15 provided in this section is in addition to the limits prescribed under § 5-14-10.

16 Section 18. That § 41-2-26 be amended to read as follows:

17 41-2-26. The Department of Game, Fish and Parks ~~shall have the power and duty to~~ may  
18 grant easements, leases, or permits on property ~~which~~ that it owns or controls, for public  
19 utilities; for agricultural purposes; for electrical power or telephone lines; for towers for radio,  
20 television, or radar; for cabin sites; and for concessions; and for the  
21 development, operation, or management of facilities to service the needs of the public.

22 Section 19. That § 41-2-27 be amended to read as follows:

23 41-2-27. The Department of Game, Fish and Parks shall ~~have the power and duty to~~  
24 publicize the game and fish, scenic, recreational, park, health, natural, and other resources of

1 this state in such manner as the department ~~shall deem~~ deems most effective to attract  
2 ~~immigrants~~; tourists; and others to this state; ~~and to~~. The department shall cooperate with any  
3 other agency, department, or public corporation of this state for such purpose.

4 Section 20. That § 41-2-29.1 be amended to read as follows:

5 41-2-29.1. The Department of Game, Fish and Parks shall ~~have the power and duty to~~ sell  
6 real property owned by the state and held by the department ~~when~~ if such real property is no  
7 longer needed for game, fish, or parks purposes. Such sale ~~shall~~ may be made only by the  
8 following procedure:

- 9 (1) At the full value established by a qualified appraiser employed by the department;
- 10 (2) For cash at public auction;
- 11 (3) Five days after the last of at least two publications of notice of ~~such~~ the sale in at  
12 least three daily newspapers of the state; ~~which~~. The publications shall disclose all  
13 details relative to ~~such~~ the sale;
- 14 (4) Money received shall be deposited with the state treasurer and credited to the game,  
15 fish and parks fund;
- 16 (5) Conveyance shall be made in the name of the State of South Dakota acting by and  
17 through the Department of Game, Fish and Parks and executed in the manner  
18 provided by § 5-2-11.

19 Section 21. That § 41-2-29.2 be amended to read as follows:

20 41-2-29.2. The Department of Game, Fish and Parks ~~shall have the power and duty to~~, in  
21 addition to or as an alternative to the requirements and methods specified in § 41-2-29.1, may  
22 trade or exchange real property owned by the state and held by the department ~~when such~~ if the  
23 real property is no longer needed for game, fish or parks purposes or ~~when~~ if real property more  
24 suitable to department purposes may be obtained by an exchange. ~~Such~~ The exchange ~~shall~~ may

1 be made only for other real property of equal value as determined by a qualified appraiser  
2 employed by the department. Conveyance shall be made in the name of the State of South  
3 Dakota acting by and through the Department of Game, Fish and Parks and executed in the  
4 manner provided by § 5-2-11.

5 Section 22. That § 41-2-30 be amended to read as follows:

6 41-2-30. The Department of Game, Fish and Parks shall ~~have the power and duty to~~ engage  
7 in predatory animal control activities and ~~to~~ cooperate with the United States or any agency  
8 ~~thereof of the United States~~, with other states, or with any other department, agency, or public  
9 corporation of this state in the execution of such control activities.

10 Section 23. That § 41-2-31 be amended to read as follows:

11 41-2-31. The Department of Game, Fish and Parks ~~is authorized and empowered to~~ may  
12 accept, use, and expend any funds directed to it and provided by any agency of the United States  
13 government; or provided by any other private or public sources.

14 Section 24. That § 41-2-35.1 be amended to read as follows:

15 41-2-35.1. Notwithstanding any other provisions of law, all funds received by the  
16 Department of Game, Fish and Parks shall be set forth in an informational budget as described  
17 in § 4-7-7.2 and be annually reviewed by the Legislature. ~~The provisions of this section shall~~  
18 ~~not operate to cause the loss of~~ Nothing in this section affects department control over  
19 expenditures of any portion of dedicated revenues received by the ~~Department of Game, Fish~~  
20 ~~and Parks~~ department.

21 Section 25. That § 41-2-36 be amended to read as follows:

22 41-2-36. The books and vouchers of the Department of Game, Fish and Parks ~~shall be~~ are  
23 subject to examination by the Department of Legislative Audit at all times.

24 Section 26. That § 41-3-4.1 be amended to read as follows:



1        41-3-4.1. It is the policy of this state that the federal government should not acquire land by  
2        condemnation for wildlife mitigation, except for land owned by direct beneficiaries of the  
3        project of which the wildlife mitigation is a part. The Legislature, state agencies, and the  
4        Governor ~~shall~~ may not support funding or enter into any contractual agreement for construction  
5        with the federal government for any project ~~which~~ that does not meet the ~~requirements~~  
6        provisions of this section.

7        This section ~~shall not be applicable~~ does not apply to any mitigation acquisition resulting  
8        from construction of the Missouri River reservoirs.

9        Section 27. That § 41-3-5 be amended to read as follows:

10       41-3-5. The State of South Dakota hereby assents to the provisions of the act of Congress  
11       entitled, "An Act to provide uniform policies with respect to recreation and fish and wildlife  
12       benefits and costs of federal multiple-purpose water resource projects, and for other purposes,"  
13       approved July 9, 1965 (Public Law 89-72, 89th Congress); ~~and the~~. The Department of Game,  
14       Fish and Parks ~~is hereby authorized, empowered, and directed to~~ shall perform such acts in  
15       cooperation with the United States government and all other legal entities as may be necessary  
16       to the establishment and management of fish, wildlife, and recreation areas as defined in ~~said~~  
17       the act of Congress; ~~including but not limited to the Oahe Irrigation Project~~, in compliance with  
18       ~~said the~~ the act and rules and regulations promulgated by the secretary of the interior ~~thereunder~~  
19       under the act.

20       Section 28. That § 41-3-9 be amended to read as follows:

21       41-3-9. The Game, Fish and Parks Commission may grant permission under its seal to any  
22       accredited representative of any incorporated society of natural history to collect for scientific  
23       purposes only, nests, eggs, birds, animals, or fish protected by this title. Such specimens ~~shall~~  
24       may not be sold or transferred.

Section 29. That § 41-3-10 be amended to read as follows:

41-3-10. The Department of Game, Fish and Parks ~~shall have~~ has charge of the construction, control, and management of all fish hatcheries, including the control of grounds owned or leased for such purposes.

Section 30. That § 41-3-11 be amended to read as follows:

41-3-11. The State of South Dakota hereby assents to the provisions of the act of Congress entitled, "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950 (Public Law 681, 81st Congress); ~~and the~~ The Department of Game, Fish and Parks ~~is hereby authorized, empowered, and directed to~~ shall perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in ~~said~~ the act of Congress, in compliance with ~~said~~ the act and rules and regulations promulgated by the secretary of the interior ~~thereunder, and no~~ under the act. No funds accruing to the State of South Dakota from license fees paid by fishermen ~~shall~~ may be diverted for any other purpose than the administration of the Department of Game, Fish and Parks and for the protection, propagation, preservation, and investigation of fish and game.

Section 31. That § 41-3-12 be amended to read as follows:

41-3-12. The Department of Game, Fish and Parks ~~shall have~~ has charge of the receiving from the United States Fish and Wildlife Service or other persons, and the gathering, purchase, and distribution to the waters of this state of fish, fish spawn, and fry.

Section 32. That § 41-3-13 be amended to read as follows:

41-3-13. The Department of Game, Fish and Parks ~~shall have~~ has charge of the taking of fish from public waters of the state for the propagation and stocking of other waters ~~therein~~ in the state and the transferring of game animals or game birds from one section of the state to another

1 for stocking purposes.

2 Section 33. That § 41-3-14 be amended to read as follows:

3 41-3-14. It is a Class 2 misdemeanor for any person to obstruct any appointee or employee  
4 of the Department of Game, Fish and Parks who is engaged in ~~his~~ assigned duties of gathering  
5 fish spawn, collecting or killing fish, or any other activities undertaken to carry out the  
6 department's duties and responsibilities of managing the fisheries resources of the state; It is  
7 a Class 2 misdemeanor for any person to place in public waters any logs or other debris or  
8 objects ~~at any time when~~ if such action may impede the accomplishment of assigned duties by  
9 departmental appointees or employees; ~~or, It is a Class 2 misdemeanor for any person~~ to move,  
10 handle, or disturb any net or other device used by department appointees or employees for the  
11 purpose of carrying out ~~their~~ assigned duties.

12 Section 34. That § 41-4-1 be amended to read as follows:

13 41-4-1. The Department of Game, Fish and Parks ~~shall have authority to~~ may acquire or  
14 condemn private property ~~where such~~ if the property is necessary to carry out the purposes and  
15 intent of this title. ~~When~~ If the Game, Fish and Parks Commission deems it necessary to take  
16 or condemn any private property for such purposes, ~~it~~ the commission shall by proper resolution  
17 declare such necessity, stating the purpose and extent ~~thereof, and of the action.~~ The commission  
18 shall communicate ~~such~~ the resolution to the attorney general, and thereupon the proceedings  
19 to take or condemn ~~such~~ the property shall be ~~had~~ conducted as provided by the laws of this  
20 state in the name of the state as plaintiff.

21 Section 35. That § 41-4-3 be amended to read as follows:

22 41-4-3. Three dollars received from the sale of each nonresident small game license shall  
23 be placed in a fund to be known as the land acquisition and development fund. The moneys  
24 from this fund shall be used ~~to~~ for the following purposes:

(1) To acquire by purchase or lease real property to be used primarily for game production;~~and such.~~ Such real property shall remain open for public hunting; ~~to~~

(2) To pay the salary and any necessary expenses of any employee of the Department of Game, Fish and Parks engaged in the acquisition of such real property; ~~for~~

(3) For improving and maintaining game production areas; and ~~for~~

(4) For the payment of taxes on public shooting areas.

Not more than twenty-five percent of the land acquisition and development fund, after the payment of taxes, ~~shall may~~ be used for the administration of ~~such the~~ fund or for improving and maintaining game production areas.

Section 36. That § 41-4-6 be amended to read as follows:

41-4-6. The Department of Game, Fish and Parks shall ~~cause to be published~~ publish notice of timber sales in three official newspapers in the county or vicinity in which the timber is located, once each week for at least two consecutive weeks ~~prior to~~ before the sales date. ~~Such~~ The notice shall set forth the approximate boundaries of the timber sale, the estimated amount of timber to be sold, the time when bids may be filed with the department, and when such bids will be considered if sold on sealed bids, or, if the timber is to be sold by auction, the time and place where ~~such the~~ public auction will be held.

Section 37. That § 41-4-7 be amended to read as follows:

41-4-7. No sale ~~shall may~~ be made under §§ 41-4-4 to 41-4-6, inclusive, unless the sum offered is at least ninety percent of the appraised value ~~thereof~~ of the timber as fixed by the state forester, and all sales shall be made to the highest responsible bidder. The Department of Game, Fish and Parks may reject any ~~and all~~ bids and readvertise ~~such sale if none of the bids are the~~ sale if no bid is satisfactory, or if it the department believes any agreement has been entered into by the bidders to prevent competition.

Section 38. That § 41-4-8 be amended to read as follows:

41-4-8. All state-owned lands, known as public shooting areas, acquired under the provisions of §§ 41-2-19 to 41-2-21, inclusive, or which may hereafter be so acquired, and all state-owned game production lands or areas and controlled hunting areas, ~~shall be~~ are subject to taxation by the local taxing districts ~~of the State of South Dakota~~ within which ~~said the~~ the lands are severally located for county, township, and school purposes only.

~~Said~~ The lands shall be assessed by the directors of equalization ~~within the State of South Dakota~~ in the same manner as other lands are assessed for taxation, ~~and such~~. The assessments shall be equalized and ~~said the~~ the lands entered upon the tax lists for taxation in the same manner as other lands are equalized and entered, but in extending the levy of taxes against ~~said the~~ the lands, the taxing officer ~~shall~~ may extend only the levies made by the local taxing districts for county, township, and school purposes.

Section 39. That § 41-4-9 be amended to read as follows:

41-4-9. ~~In the event~~ If the United States of America condemns and takes by eminent domain any realty owned by the State of South Dakota ~~which realty that~~ that is held and administered by the Department of Game, Fish and Parks ~~when prior thereto the Department of Game, Fish and Parks have~~ and if the department has given leases for the property to private parties before the condemnation and taking, the department ~~shall have full authority and power to reimburse such~~ may reimburse the private parties whose leasehold interest has been taken to fully compensate ~~such the~~ the private parties for the loss of their leasehold interest ~~and further such~~. The department ~~is hereby empowered to~~ may pay out of such funds paid by the United States of America such amounts to ~~such the~~ the private parties as ~~is~~ are established by the appraised value of ~~such the~~ the leasehold interest by the United States of America, or any agency ~~thereof~~ of the United States, and ~~is~~ are agreed as acceptable by ~~such the~~ the private parties. Upon receipt of payment, ~~such the~~

1 private parties shall give a release to the State of South Dakota, releasing the state from all  
2 further claims for payment for damages to ~~such~~ the leasehold interests.

3 Section 40. That § 41-4-10 be amended to read as follows:

4 41-4-10. The Department of Game, Fish and Parks may acquire by gift or lease, from willing  
5 landowners, the right to maintain unused, terminated, or abandoned section-line rights-of-way  
6 as game production areas. This section ~~shall~~ does not apply to section lines where roads have  
7 never been developed ~~nor shall any~~. No such interest acquired by the department may prevent  
8 a roadway from being reopened to public travel.

9 Every political subdivision of the state east of the Missouri River having highways or  
10 roadways under its jurisdiction may notify the Department of Game, Fish and Parks of any of  
11 its developed rights-of-way ~~which that~~ are not being maintained as public highways or roads and  
12 shall cooperate with the department in acquiring and maintaining such rights-of-way for use as  
13 game production areas.

14 Section 41. That § 41-5-5 be amended to read as follows:

15 41-5-5. The Department of Game, Fish and Parks shall post good and sufficient notices at  
16 the borders of all preserves and refuges of the state, and upon all the public highways leading  
17 into or across the ~~same~~ preserve or refuge, giving notice to the public that the ~~same property~~ is  
18 a preserve or refuge of the state and that hunting is forbidden ~~therein~~ in the preserve or refuge.

19 Section 42. That § 41-5-6 be amended to read as follows:

20 41-5-6. It is a Class 2 misdemeanor for any person to cut, remove, or in any way tamper with  
21 any fence surrounding any preserve or refuge or the gates leading into the ~~same~~ preserve or  
22 refuge, or to leave open or fail to close any such gate ~~when open~~ if opened.

23 Section 43. That § 41-5-8 be amended to read as follows:

24 41-5-8. Any person crossing the state game preserve or any game or bird refuge upon any

1 public highway may carry a firearm ~~provided the same~~ if the firearm is enclosed in a case and  
2 not removed ~~therefrom while in such~~ from the case while in the preserve or refuge; ~~and any.~~  
3 Any bona fide resident within any game preserve or refuge in the state may carry firearms for  
4 the purpose of killing nongame and predatory animals or birds on ~~his~~ the resident's own  
5 premises, and ~~such person~~ the resident may kill nongame and predatory animals or birds on ~~his~~  
6 the resident's own premises within any game preserve or refuge.

7 Section 44. That § 41-5-9 be amended to read as follows:

8 41-5-9. ~~It shall be the duty of all~~ All conservation officers and members of the state forest  
9 service ~~to~~ shall enforce the provisions of §§ 41-5-6 to 41-5-8, inclusive.

10 Section 45. That § 41-6-4 be amended to read as follows:

11 41-6-4. A license to take fur-bearing animals ~~shall not be~~ is not required of a resident of this  
12 state less than sixteen years old to exercise the rights and privileges of the holder of such a  
13 license.

14 Section 46. That § 41-6-5 be amended to read as follows:

15 41-6-5. Raccoon, skunk, fox, and badger may be killed by a property owner, lessee, or ~~his~~  
16 the property owner's or lessee's agent at any time without a license ~~when~~ if the animal is doing  
17 damage around buildings or causing injury to livestock or poultry.

18 Section 47. That § 41-6-6 be amended to read as follows:

19 41-6-6. A license to fish, to the extent and in the manner permitted by a resident fishing  
20 license, ~~shall~~ is not be required of ~~persons~~ any person less than sixteen years old; ~~when such~~  
21 ~~persons less than sixteen years old are residents~~ who is a resident of this state.

22 Section 48. That § 41-6-26 be amended to read as follows:

23 41-6-26. The Game, Fish and Parks Commission may ~~in its discretion~~ revoke any fur  
24 dealer's license ~~when it has been made to appear to the satisfaction of~~ if the commission

1 ~~determines~~ that the holder ~~thereof~~ of the license has violated any provision of §§ 41-14-22 to  
2 41-14-24, inclusive, relating to fur dealers or has purchased any skin out of season. No person  
3 whose license ~~shall be~~ is so revoked ~~shall~~ may receive another license within two years from the  
4 date of ~~such~~ the revocation.

5 Section 49. That § 41-6-41 be amended to read as follows:

6 41-6-41. No license ~~shall be~~ is required for the privilege of purchasing and catching fish  
7 pursuant to § 41-6-40.

8 Section 50. That § 41-6-53 be amended to read as follows:

9 41-6-53. A nonresident or visitor's license ~~shall~~ may be granted under §§ 41-6-16 to 41-6-  
10 45.1, inclusive, only to a person whose residence ~~is not such as to~~ does not qualify ~~him~~ the  
11 person for a resident license; ~~provided that~~. However, a nonresident under sixteen years of age  
12 ~~shall not be~~ is not required to purchase a license to fish if ~~such~~ the nonresident is fishing with  
13 a parent or guardian who has a license and ~~provided that~~ if all fish taken by ~~such~~ the nonresident  
14 under sixteen years of age ~~shall be~~ are counted as a part of the string limit of the parent or  
15 guardian with whom he or she is fishing.

16 Section 51. That § 41-6-77 be amended to read as follows:

17 41-6-77. Except as otherwise provided, it is a Class 2 misdemeanor for a nonresident to  
18 catch or attempt to catch, take, kill, or ~~have in his possession~~ possess any fish, frogs, or turtles  
19 without a nonresident fishing license, a temporary fishing license, or a nonresident family  
20 fishing license or in violation of the conditions of the license or the rules of the Game, Fish and  
21 Parks Commission.

22 Section 52. That § 41-8-5 be amended to read as follows:

23 41-8-5. The Department of Game, Fish and Parks ~~shall~~ may not authorize the taking of more  
24 than forty mountain goats within one year.



Section 53. That § 41-8-7 be amended to read as follows:

41-8-7. Each act of pursuing, hunting, or killing any big game animal without a license ~~shall~~  
~~be~~ is a distinct and separate offense; and every act of pursuing, hunting, or killing of any big  
game animal during the closed season ~~shall be~~ is a distinct and separate offense.

Section 54. That § 41-8-23 be amended to read as follows:

41-8-23. Mink may be killed at any time ~~when~~ if doing damage around buildings but all such  
~~animals~~ mink killed ~~shall be~~ are the property of the state, if taken during the closed season.  
~~When~~ If muskrat or beaver are injuring irrigation ditches, dams, embankments, or public  
highways, or causing any other damage to property, the ~~director~~ secretary of game, fish and  
parks may issue a permit to trap or kill such animals at any time. The Game, Fish and Parks  
Commission ~~shall have the power to~~ may authorize the killing or trapping of beaver upon public  
lands and game preserves at any time ~~when it shall deem it~~ the commission deems necessary.

Section 55. That § 41-8-24 be amended to read as follows:

41-8-24. No person ~~shall~~ may hunt any mink or muskrat with the aid of any dog, or dig,  
disturb, or molest any mink den or beaver house for the purpose of capturing any of these  
animals, ~~or. No person may~~ use poison, gas, or smokers of any kind to kill, take, or capture ~~any~~  
~~of these animals~~ mink, muskrats, or beavers. No person ~~shall~~ may shoot or spear muskrats at any  
time except under permit as provided in § 41-8-23. ~~A~~ Any violation of ~~any provision of this~~  
section is a Class 2 misdemeanor.

Section 56. That § 41-8-29 be amended to read as follows:

41-8-29. ~~If the person~~ Any person who is found guilty as specified in § 41-8-28 ~~shall be the~~  
~~holder of~~ who holds a South Dakota trapping license ~~he~~ shall upon conviction deliver ~~such the~~  
license to the judge pronouncing sentence. The judge shall forward the ~~same~~ license to the  
Department of Game, Fish and Parks, ~~which~~ The department shall cancel the ~~same~~ license, and

1 no trapping license ~~shall~~ may thereafter be issued to ~~such~~ the guilty person for a period of two  
2 years from the date of ~~said~~ the conviction.

3 Section 57. That § 41-8-39.2 be amended to read as follows:

4 41-8-39.2. Notwithstanding the provisions of § 41-8-39, the Department of Game, Fish and  
5 Parks ~~is authorized to~~ may contract with aerial hunters to control foxes and coyotes as permitted  
6 under P. L. 92-159 or § 40-36-9 ~~when~~ if requested by landowners or tenants.

7 Section 58. That § 41-9-1 be amended to read as follows:

8 41-9-1. Except as provided in § 41-9-2, no person may fish, hunt, or trap upon any private  
9 land ~~not his own or in his possession~~ without permission from the owner or lessee of ~~such~~ the  
10 land. A violation of this section is a Class 2 misdemeanor and is subject to § 41-9-8.

11 Section 59. That § 41-10-9 be amended to read as follows:

12 41-10-9. Game ~~which~~ that may be hunted under this chapter ~~shall be~~ includes mallard ducks,  
13 pheasants, quail, partridges, turkey, and such other species of game as the Game, Fish and Parks  
14 Commission may add in rules promulgated pursuant to chapter 1-26. The commission may  
15 exclude mallard ducks from the list of permitted species for any period of time and without  
16 advance notice ~~provided such action is deemed~~ if necessary to protect ~~such~~ the species.

17 Section 60. That § 41-10-10 be amended to read as follows:

18 41-10-10. All game released on a shooting preserve ~~must~~ shall be marked as prescribed by  
19 the Game, Fish and Parks Commission. All game not marked as prescribed ~~shall be~~ is deemed  
20 wild game.

21 Section 61. That § 41-12-2 be amended to read as follows:

22 41-12-2. It is a Class 2 misdemeanor for any person to catch, kill, or take any fish in any  
23 manner from any private water used for the propagation of fish except by the consent of the  
24 proprietor ~~thereof~~ of the private water.

Section 62. That § 41-12-6 be amended to read as follows:

41-12-6. It is a Class 2 misdemeanor for any person to fish with more than the maximum number of hooks or lines that may be established ~~by the rules of~~ in rules promulgated pursuant to chapter 1-26 by the Game, Fish and Parks Commission.

Section 63. That § 41-12-9 be amended to read as follows:

41-12-9. It is a Class 1 misdemeanor for any person to ~~have in his possession or under his possess or control~~, or to place, keep, or maintain in any of the public waters of this state any trammel or gill net, seine, or other similar device for capturing fish, ~~or. It is a Class 1 misdemeanor~~ for any person to take in any of the public waters of this state for any purpose whatever, any fish at any time by the erection of any weir, dam, or artificial obstruction or by the use of any trammel or gill net, trap, or similar device, or to place, keep, or maintain the same in any of the public waters of this state. The Department of Game, Fish and Parks may authorize private landowners to use specified devices to take minnows or control undesirable or overpopulated species of fish in their private waters.

Section 64. That § 41-12-14 be amended to read as follows:

41-12-14. Appointees and employees of the Department of Game, Fish and Parks ~~shall be~~ are exempted from ~~any or all of~~ the provisions of this chapter and chapter 41-13 when carrying out ~~their~~ assigned duties and responsibilities of managing the fisheries resources in the public waters of the state.

Section 65. That § 41-13-2 be amended to read as follows:

41-13-2. It is a Class 2 misdemeanor to place chemicals in the public waters of this state containing game fish for the purpose of controlling plants, ~~unless explicit authorization to do so is obtained from the Department of Game, Fish and Parks. The department may prescribe such rules and regulations which in its discretion, are deemed necessary or desirable without~~

1 written permission of the secretary of game, fish and parks. The Game, Fish and Parks  
2 Commission may promulgate rules pursuant to chapter 1-26 to safeguard game fish and other  
3 animals from the effects of such chemicals.

4 Section 66. That § 41-13-3.1 be amended to read as follows:

5 41-13-3.1. It is a Class 2 misdemeanor for any person to import live fishes or viable eggs  
6 of the family salmonidae into the State of South Dakota unless such importation complies with  
7 rules ~~and regulations established~~ promulgated pursuant to chapter 1-26 by the Department of  
8 Game, Fish and Parks.

9 Section 67. That § 41-13-5 be amended to read as follows:

10 41-13-5. The Department of Game, Fish and Parks may remove and dispose of rough fish  
11 and bullheads from the public waters of the state by the use of seines, nets, chemicals, or by  
12 other means or devices ~~when in its discretion the same is necessary or advisable.~~

13 Section 68. That § 41-13-7 be amended to read as follows:

14 41-13-7. The Department of Game, Fish and Parks may contract for the removal of rough  
15 fish and bullheads from any of the public waters of the state, ~~provided that if~~ if fishing under ~~such~~  
16 ~~contract shall be~~ the contract is done under the personal supervision of a person designated by  
17 the secretary of game, fish and parks. Any person carrying on such fishing operations under such  
18 a contract shall furnish bond in ~~such amount as the department may deem proper~~ an amount  
19 determined by the department, conditioned upon ~~his~~ the person's compliance with all of the  
20 terms of ~~his~~ the contract.

21 Section 69. That § 41-13-10 be amended to read as follows:

22 41-13-10. On the waters of the Missouri River and its impoundments, game fish taken  
23 incidentally in operations designed to control rough fish and bullheads, ~~when~~ if the condition  
24 of the ~~same game fish~~ game fish is such that they cannot be, ~~reasonably, otherwise salvaged~~ reasonably

1 be salvaged, may be removed and disposed of in the same manner prescribed for rough fish and  
2 bullheads.

3 Section 70. That § 41-14-1 be amended to read as follows:

4 41-14-1. It is a Class 2 misdemeanor for any person to ~~have in his possession or under his~~  
5 possess or control any bird, animal, or fish, or any part ~~thereof, which~~ of any bird, animal, or  
6 fish, that has been unlawfully taken, caught, or killed in this or any other state or foreign  
7 country, or ~~which that~~ that has been unlawfully transported into this state.

8 It is a Class 1 misdemeanor for any person to ~~have in his possession, or under his possess~~  
9 or control; any big game animal, or any part ~~thereof, which~~ of any big game animal, that has  
10 been unlawfully taken, caught, or killed in any other state or foreign country, or ~~which that~~  
11 been unlawfully transported into this state.

12 Section 71. That § 41-14-2 be amended to read as follows:

13 41-14-2. The possession ~~of, or having under~~ or control by any person; of any bird, animal,  
14 or fish, or any part ~~thereof~~ of any bird, animal, or fish, the killing of which is at any time  
15 prohibited, ~~shall be~~ is prima facie evidence that ~~it~~ the bird, animal, or fish was the property of  
16 this state at the time it was caught, taken, or killed, and that it was caught, taken, or killed in this  
17 state.

18 Section 72. That § 41-14-3 be amended to read as follows:

19 41-14-3. The possession or ~~having under~~ control by any person of any bird, animal, or fish  
20 at any time when the killing, taking, or possession ~~thereof is by the law of this state declared to~~  
21 ~~be unlawful, shall be~~ of the bird, animal, or fish is unlawful is prima facie evidence that ~~such~~  
22 the taking or killing occurred during the closed season. ~~It shall be necessary for, unless~~  
23 person in possession ~~thereof to show~~ of the bird, animal, or fish shows that at the time it was  
24 caught, taken, or killed, it was lawfully caught, taken, or killed either within or without the state,

1 and that ~~he~~ the person was lawfully in possession ~~thereof~~ of the bird, animal, or fish.

2 Section 73. That § 41-14-10 be amended to read as follows:

3 41-14-10. It is a Class 2 misdemeanor for an employee of any common carrier to carry any  
4 game bird or part ~~thereof with him~~ of any game bird on a common carrier either as baggage or  
5 otherwise while engaged in the course of his or her employment.

6 Section 74. That § 41-14-14 be amended to read as follows:

7 41-14-14. No big game animal taken in this state ~~shall~~ may be transported unless the locking  
8 seal and tag bearing the license number of the owner and the year of its issue ~~has been~~ are  
9 securely locked and attached, ~~in such manner as may be required by regulations of~~ as required  
10 by rules promulgated pursuant to chapter 1-26 by the Department of Game, Fish and Parks. The  
11 seal ~~must~~ shall be securely locked and the tag attached at the time the big game animal is  
12 brought out to a road or into any hunting camp, dwelling, farmyard, or other place of abode of  
13 any kind, or before it is placed upon or in a vehicle of any kind. The seal and tag shall be  
14 furnished by the department with each ~~and every~~ big game license. A violation of ~~any provision~~  
15 ~~of this section~~ is a Class 1 misdemeanor.

16 Section 75. That § 41-14-15 be amended to read as follows:

17 41-14-15. ~~Every~~ Any person to whom there has been issued a license to hunt big game ~~shall~~  
18 ~~be entitled to~~ may carry, ship, or transport any big game animal or part ~~thereof~~ of any big game  
19 animal lawfully possessed by ~~him~~ the person upon the conditions set forth in §§ 41-14-16 and  
20 41-14-17.

21 Section 76. That § 41-14-17 be amended to read as follows:

22 41-14-17. If a part of any big game animal ~~be~~ is transported by a common carrier to a  
23 location within or outside of this state, the licensee shall procure the permit provided by § 41-6-  
24 22. One of the triplicates ~~thereof~~ of the permit shall be mailed to the secretary of game, fish and

1 parks by the person issuing the ~~same permit~~, one delivered to the licensee, and the other retained  
2 by the person issuing the ~~same permit~~. The permit delivered to the licensee shall be attached to  
3 the part of the big game animal so to be transported, and ~~when so attached~~ if the permit is  
4 attached as provided in this section, a common carrier may receive ~~such the~~ part of big game  
5 animal for shipment.

6 Section 77. That § 41-14-19 be amended to read as follows:

7 41-14-19. The possession or ~~having under~~ control by any person of the raw skin of any  
8 protected fur-bearing animal, or any part ~~thereof~~, shall be of any protected fur-bearing animal,  
9 is prima facie evidence that it the animal was the property of this state at the time it was caught,  
10 taken, or killed and that it the animal was caught, taken, or killed in this state.

11 Section 78. That § 41-14-20 be amended to read as follows:

12 41-14-20. The possession or ~~having under~~ control by any person of the raw skin of any  
13 protected fur-bearing animal, or any part ~~thereof~~ of any protected fur-bearing animal, at any time  
14 when the killing, taking, or possession ~~thereof~~ of such an animal is ~~by law declared to be~~  
15 ~~unlawful shall be~~ unlawful is prima facie evidence that ~~such the~~ taking and killing occurred  
16 during the closed season, ~~to disprove which it shall be necessary for~~ unless the person in  
17 possession ~~thereof to show that it~~ of the animal shows that the animal was lawfully caught,  
18 taken, or killed; and that ~~he the person~~ is lawfully in possession ~~thereof~~ of the raw skin.

19 Section 79. That § 41-14-22 be amended to read as follows:

20 41-14-22. ~~Licensed fur dealers shall have authority to~~ Any licensed fur dealer may hold and  
21 store raw furs during closed season, and the agent of any common carrier may accept such furs  
22 for shipment at any time upon evidence that the consignor is duly licensed under the provisions  
23 of this title.

24 Section 80. That § 41-14-29 be amended to read as follows:

1        41-14-29. Rough fish legally taken, acquired, and possessed may be sold, ~~and~~, or transported  
2        or both, within or without the state if ~~such act or acts conform with rules and regulations of the~~  
3        ~~South Dakota Department of Agriculture~~ unless otherwise provide by law.

4        Section 81. That § 41-14-32 be amended to read as follows:

5        41-14-32. ~~Any person who takes, catches, kills, or has in his possession; has in his~~  
6        ~~possession with intent to sell, sells, offers, or exposes for sale, ships by common carrier,~~  
7        ~~conveys, or causes to be conveyed; has in possession with intent to ship or convey to any point,~~  
8        ~~either within or without this state, any game birds, animals other than big game animals, or fish,~~  
9        ~~or any part thereof, in violation of any law of this state or any rule of the Department of Game,~~  
10       ~~Fish and Parks, or any common carrier or agent thereof who aids or abets any person in shipping~~  
11       ~~such game birds, animals other than big game animals, or fish, or has the same in possession~~  
12       ~~with intent to ship or convey to any point either within or without this state contrary to law, is~~  
13       ~~guilty of a Class 2 misdemeanor for each game bird, animal, or fish, or any part thereof, taken,~~  
14       ~~caught, killed, sold, offered, or exposed for sale, had in possession or had in possession with~~  
15       ~~intent to sell, shipped by common carrier, or transported to any point within or without this state~~  
16       ~~in violation of law.~~

17       ~~— Any person who takes, catches, kills, or has in his possession; has in his possession with~~  
18       ~~intent to sell; sells, offers, or exposes for sale; ships by common carrier, conveys, or causes to~~  
19       ~~be conveyed; has in possession with intent to ship or convey to any point, either within or~~  
20       ~~without this state, any big game animal, or any part thereof, in violation of any law of this state~~  
21       ~~or any rule of the Department of Game, Fish and Parks; or any common carrier or agent thereof~~  
22       ~~who aids or abets any person in shipping any such big game animal, or has the same in~~  
23       ~~possession with intent to ship or convey to any point either within or without this state contrary~~  
24       ~~to law, is guilty of a Class 1 misdemeanor for each big game animal, or any part thereof, taken,~~



~~caught, killed, sold, offered, or exposed for sale, had in possession or had in possession with intent to sell, shipped by common carrier, or transported to any point within or without this state in violation of law. No person may take, catch, kill, or possess; possess with intent to sell; sell, offer, or expose for sale; ship by common carrier, convey, or cause to be conveyed; or possess with intent to ship or convey to any point, either within or without this state, any bird, animal, or fish, or any part of any bird, animal, or fish, in violation of any state law or administrative rule. No common carrier or agent of a common carrier may aid or abet any person in shipping any such bird, animal, or fish, nor possess any such bird, animal, or fish with intent to ship or convey to any point either within or without this state contrary to law.~~

A violation of this section pertaining to any bird, animal, or fish other than a big game animal is a Class 2 misdemeanor for each bird, animal, or fish, or any part of any such bird, animal, or fish taken, caught, killed, sold, offered for sale, exposed for sale, possessed, possessed with intent to sell, shipped by common carrier, or transported to any point within or without this state in violation of law. A violation of this section pertaining to any big game animal is a Class 1 misdemeanor for each big game animal, or any part of any such big game animal, taken, caught, killed, sold, offered for sale, exposed for sale, possessed, possessed with intent to sell, shipped by common carrier, or transported to any point within or without this state in violation of law.

The total imprisonment for violations of this section which occur at the same time may not exceed one year.

Section 82. That § 41-14-34 be amended to read as follows:

41-14-34. It is a Class 1 misdemeanor for any person to barter, trade, or sell baitfish within South Dakota, or to export baitfish from South Dakota, unless ~~he~~ the person is licensed by the Game, Fish and Parks Department in accordance with the provisions of this chapter.

Section 83. That § 41-14-35 be amended to read as follows:

41-14-35. Except for lawful sport fishermen who may trap, seine, and possess up to twelve dozen baitfish for personal use, no person may seine or take baitfish from the waters of this state unless ~~he~~ the person is licensed by the Department of Game, Fish and Parks in accordance with the provisions of this chapter. A violation of this section is a Class 1 misdemeanor.

Section 84. That § 41-15-2 be amended to read as follows:

41-15-2. For the purpose of enforcing any of the laws under this title and the rules ~~and regulations promulgated thereunder~~ promulgated pursuant to this title, the courts of this state, and the conservation officers of this state, ~~shall~~ have jurisdiction over the entire boundary waters of the state, to the furthestmost shore line, ~~and concurrent.~~ Concurrent jurisdiction of the courts and administrative officers of the adjoining states of Minnesota, North Dakota, Montana, Wyoming, Iowa, and Nebraska over all boundary waters between such states and this state, and the whole ~~thereof~~ of such boundary waters, is hereby recognized.

Section 85. That § 41-15-3 be amended to read as follows:

41-15-3. ~~It shall be the duty of the~~ The state's attorney, sheriff, constables, and other peace officers, ~~to~~ shall enforce the game and fish laws of the state.

Section 86. That § 41-15-6 be amended to read as follows:

41-15-6. ~~Every person having in possession~~ Any person who possesses any game bird, animal, or fish shall, upon the request of any person authorized to enforce the game and fish laws of the state, permit the inspection and count of ~~such~~ the birds, animals, or fish ~~in his possession, and any.~~ Any motor vehicle, pickup camper, camper, or any conveyance attached thereto, may be stopped for such an inspection and count by any uniformed law enforcement officer.

Section 87. That § 41-15-7 be amended to read as follows:

1        41-15-7. Any person who refuses to permit the inspection and count of any game birds,  
2        animals, or fish in ~~his~~ the person's possession; or who interferes with or obstructs any officer  
3        attempting to make such an inspection or count is guilty of a Class 2 misdemeanor.

4        Section 88. That § 41-15-8 be amended to read as follows:

5        41-15-8. The secretary of game, fish and parks and conservation officers ~~shall have authority~~  
6        to may inspect hotels, restaurants, cold storage houses or plants, and icehouses commonly used  
7        for like purposes for the purpose of determining whether game or fish are being kept ~~therein~~ in  
8        violation of law.

9        Section 89. That § 41-15-14 be amended to read as follows:

10       41-15-14. The Department of Game, Fish and Parks ~~shall have~~ has charge of the seizure and  
11       disposition of ~~all game birds, game animals~~ any game bird, game animal, and fish, taken, killed,  
12       transported, or possessed contrary to law, and ~~of all dogs, guns, seines, nets, boats, lights, or~~  
13       ~~other instrumentalities~~ any dog, gun, seine, net, boat, light, or other instrumentality unlawfully  
14       used or held with intent to use in pursuing, taking, attempting to take, concealing, or disposing  
15       of ~~same~~ any such game bird, game animal, or fish.

16       Section 90. That § 41-15-15 be amended to read as follows:

17       41-15-15. ~~All~~ Any law enforcement officers ~~are hereby authorized and empowered to officer~~  
18       may seize and hold, for the purpose of being used as evidence at any trial, any hunting and  
19       fishing equipment used in violation of the game and fish laws. Such equipment shall be returned  
20       to the defendant under the direction of the court or magistrate when its purpose as evidence has  
21       been fulfilled. Any property left in the possession of the court or any law enforcement officer  
22       for a period of one year after its purpose as evidence has been fulfilled ~~shall be~~ is deemed  
23       abandoned.

24       Section 91. That § 41-15-17 be amended to read as follows:

1        41-15-17. Any court having jurisdiction may, on complaint showing probable cause for  
2 believing that any bird, animal, fish, or skin of fur-bearing animals or any part ~~thereof~~ of any  
3 such bird, animal, fish, or skin, caught, taken, killed, ~~had in possession or under control~~  
4 possessed, or controlled by any person, or shipped or transported by any person, contrary to law  
5 is concealed or illegally kept in any building, motor vehicle, or receptacle, issue a search warrant  
6 and cause a search to be made in any such place for any such bird, animal, fish, or ~~skins of~~  
7 ~~fur-bearing animals~~ skin, or any part ~~thereof~~, and of any such bird, animal, fish, or skin. The  
8 court may cause any building, enclosure, or motor vehicle to be entered, and any compartment,  
9 chest, box, locker, crate, basket, package, or other receptacle to be opened; and the contents  
10 ~~thereof~~ examined.

11        Section 92. That § 41-15-18 be amended to read as follows:

12        41-15-18. Any bird, animal, fish, or the ~~skins~~ skin of any fur-bearing ~~animals~~ animal, or any  
13 part ~~thereof~~ of any such bird, animal, fish, or skin, caught, killed, shipped, ~~or had in possession~~  
14 ~~or under control~~ possessed, or controlled, contrary to any of the provisions of this title or any  
15 ~~regulations~~ rules of the Game, Fish and Parks Commission, and any compartment, chest, box,  
16 locker, crate, basket, package, or other receptacle or contrivance in which ~~the same are~~ any such  
17 bird, animal, fish, or skin is kept, concealed, or transported, unless otherwise expressly excepted  
18 by law, ~~shall be~~ are deemed contraband, ~~and the~~. The secretary of game, fish and parks;  
19 ~~conservation officers, sheriffs, deputy sheriffs, constables, and peace officers or any~~  
20 conservation officer or law enforcement officer shall seize and take possession ~~thereof~~ of the  
21 contraband pending action by a court of competent jurisdiction.

22        Section 93. That § 41-15-18.1 be amended to read as follows:

23        41-15-18.1. Any ~~guns, implements, or vehicles~~ gun, implement, or vehicle unlawfully used  
24 in the killing, taking, or transporting of elk or buffalo one hour after sunset to one hour before

1 sunrise during open season or any time during closed season on such animals ~~shall be~~ is deemed  
2 contraband, ~~and the officers.~~ The secretary of game, fish and parks or any conservation officer  
3 or law enforcement officer shall seize and take possession ~~thereof of the contraband~~ pending  
4 action and determination by a court of competent jurisdiction.

5 Section 94. That § 41-15-20 be amended to read as follows:

6 41-15-20. The secretary of game, fish and parks ~~shall have authority to~~ may sell at the  
7 highest market price obtainable ~~therefor all furs, fish, game animals, game birds, hunting and~~  
8 any fur, fish, game animal, game bird, hunting equipment, fishing equipment, and other  
9 contraband ~~which may come into his possession by abandonment or as~~ that is abandoned or is  
10 deemed contraband as provided in §§ 41-15-15 to 41-15-19, inclusive. The proceeds of ~~such the~~  
11 sales shall be turned into the state treasury and credited to the Department of Game, Fish and  
12 Parks fund. A record of ~~such the~~ sales, including the name of the purchaser and the purchase  
13 price paid, shall be kept by the secretary. The secretary shall, before sale, tag the ~~same~~ items to  
14 be sold in a manner to be determined by ~~him~~ the secretary.

15 Section 95. That § 41-15-21 be amended to read as follows:

16 41-15-21. No fish, game, game ~~animals, game birds~~ animal, game bird, or any part ~~thereof~~  
17 of any such fish, animal, or bird sold pursuant to the terms of § 41-15-20 ~~shall~~ may be resold,  
18 offered for sale, ~~or~~ held for the purpose of sale, or otherwise disposed of to any other person by  
19 ~~such the~~ purchaser. ~~Such game shall~~ The fish, animal, or bird may not be taken into possession  
20 by any person other than ~~such the~~ purchaser.

21 Section 96. That § 41-16-13 be amended to read as follows:

22 41-16-13. ~~There shall not be paid~~ No payment to any county pursuant to §§ 41-16-11 and  
23 41-16-12 ~~an amount equal to more than~~ may exceed forty percent of the total income of ~~such~~  
24 the county, from all sources.

Section 97. That § 41-16-14 be amended to read as follows:

41-16-14. The state auditor shall annually, after the receipt of the funds referred to in §§ 41-16-11 and 41-16-12, determine the amount due each county and forward to the treasurer of each county entitled ~~thereto to receive payment~~ a warrant for ~~its~~ the county's proportion of ~~such funds, which annual amount is to be used, one-half~~ the funds. One-half of the payment shall be used for the improvement of public roads and one-half for the public schools.

Section 98. That § 41-17-2 be amended to read as follows:

41-17-2. No state park ~~shall~~ may hereafter be designated or created except by the designation and ~~adoption~~ creation as a state park by the Legislature.

Section 99. That § 41-17-4 be amended to read as follows:

41-17-4. The Department of Game, Fish and Parks ~~is hereby authorized~~ may, with the approval of the Governor and commissioner of administration, ~~to~~ purchase, construct, or otherwise acquire, or ~~to~~ contract for the feasibility survey, construction, completion, equipping, or furnishing of any recreational or parks ~~facilities~~ facility within any state park or state recreation area ~~whenever~~ if the Game, Fish and Parks Commission deems ~~such recreational facilities are~~ the facility to be necessary and feasible.

Section 100. That § 41-17-5 be amended to read as follows:

41-17-5. To accomplish the provisions and purposes of § 41-17-4, the Department of Game, Fish and Parks ~~is hereby authorized to~~ may issue revenue bonds in such amounts as the Game, Fish and Parks Commission ~~may deem~~ deems necessary. ~~Said~~ The bonds shall be authorized by resolution of the commission; and approved by the Governor, ~~may be issued in one or more series, may bear such date or dates, may mature at such time or times, not exceeding twenty years from date, may be in such form, may be executed in such manner, may be payable in such medium at such place or places, be subject to such terms of redemption, and may contain such~~

1 ~~terms, covenants, and conditions as such resolution or subsequent resolution may provide. Said.~~  
2 The bonds may be at the option of the commission callable for payment ~~prior to~~ before maturity;  
3 ~~which; and the~~ call provision, if any, shall be stated in the bond. ~~The bonds authorized herein~~  
4 ~~shall not exceed in face amount of any bond authorized pursuant to this section may not exceed~~  
5 the sum of two million dollars. The bonds, subject to the provisions of the resolution or a  
6 subsequent resolution, may:

- 7 (1) Be issued in one or more series;
- 8 (2) Bear a date specified in the resolution;
- 9 (3) Mature at a time specified in the resolution not exceeding twenty years from the date;
- 10 (4) Be in a form and be executed in a manner specified in the resolution;
- 11 (5) Be payable in a medium and at a place specified in the resolution;
- 12 (6) Be subject to terms of redemption specified in the resolution; and
- 13 (7) Contain terms, covenants, and conditions as specified in the resolution.

14 Section 101. That § 41-17-6 be amended to read as follows:

15 41-17-6. The Game, Fish and Parks Commission ~~shall have authority to~~ may pledge park  
16 license receipts and ~~all~~ any revenues derived from the operation of any recreational facility ~~or~~  
17 ~~facilities~~ constructed with income derived from the issuance of ~~such~~ the bonds as authorized in  
18 pursuant to § 41-17-5 as security for any bonds issued under § 41-17-5. If any existing  
19 recreational ~~facilities are~~ facility is reconstructed, ~~re-equipped~~ reequipped, refurbished, or  
20 otherwise improved with income derived from the issuance of revenue bonds, the value of the  
21 original facility and the value of the improvement shall be appraised and fixed, ~~and all.~~ All  
22 revenue derived ~~therefrom~~ from the facility and the improvement shall be apportioned on the  
23 basis of ~~such value, and only~~ the value of the original facility and the value of the improvement.  
24 Only that portion of the revenue representing the amount that the improvement bears to the

1 whole ~~shall~~ may be pledged as security for any bonds issued under § 41-17-5.

2 Section 102. That § 41-17-9 be amended to read as follows:

3 41-17-9. No bond, indebtedness, or obligation incurred or created under the authority of this  
4 chapter ~~shall be or become~~ constitutes a lien, charge, or liability against the State of South  
5 Dakota, nor against the Game, Fish and Parks Commission, nor against the property or funds  
6 of this state except to the extent of the income authorized in § 41-17-6 to be pledged.

7 Section 103. That § 41-17-10 be amended to read as follows:

8 41-17-10. The Department of Game, Fish and Parks ~~shall have the power to~~ may assist in  
9 ~~the maintaining of schools within Custer County, and to pay for the same~~ and may pay for such  
10 assistance out of any funds available. Payment of such funds by the department ~~shall~~ may not  
11 exceed, for each pupil who attends public school within the county and who is a resident of  
12 Custer State Park, the most recent annual average per pupil cost within the school district  
13 involved, as reported by the ~~Division of Education Services and Resources~~ Department of  
14 Education, less all receipts accrued for school purposes within Custer State Park.

15 Section 104. That § 41-17-11 be amended to read as follows:

16 41-17-11. The Department of Game, Fish and Parks ~~is hereby authorized to~~ may enter into  
17 ~~whatever agreements are deemed necessary~~ an agreement with the adjutant general of the South  
18 Dakota National Guard whereby a part of the Custer State Park may be used as a cantonment  
19 area for the national guard. ~~All such agreements~~ Any such agreement shall be approved by the  
20 Governor and filed with the commissioner of school and public lands. ~~This authority~~ The  
21 authority provided in this section includes, ~~but is not limited to~~ entering into a long term lease  
22 agreement or permit for the construction and maintenance of a permanent ~~type~~ cantonment area  
23 in Custer State Park.

24 Section 105. That § 41-17-13.3 be amended to read as follows:



1        41-17-13.3. Purchase of a park license ~~shall~~ does not exempt the buyer from payment for  
2        campground permits or service charges.

3        Section 106. That § 41-17-22.3 be repealed.

4        ~~41-17-22.3. If any provisions of § 41-17-22.1 or 41-17-22.2 or any severable provision of~~  
5        ~~§ 41-17-22.1 or 41-17-22.2 or the application of such provision to any person or circumstance,~~  
6        ~~shall be held invalid, the remainder of the section thereof and the application of such provision~~  
7        ~~to persons or circumstances other than those to which it is held invalid shall not be affected.~~

8        Section 107. That § 41-17-22.4 be amended to read as follows:

9        41-17-22.4. In ~~all~~ any concessionaire ~~leases~~ lease of property located in Custer State Park,  
10        ~~executed after March 14, 1989,~~ the Game, Fish and Parks Commission shall ~~provide in such~~  
11        ~~lease a provision requiring~~ require in the lease that if the concessionaire wants to sell, transfer,  
12        convey, or assign ~~his~~ the concessionaire's interest in ~~such~~ the leasehold, the commission shall  
13        publish and provide for a prospectus advertising ~~such~~ the leasehold and intent to transfer. The  
14        commission shall then select from ~~such~~ any interested persons a successor concessionaire ~~which~~  
15        it that the commission deems most qualified.

16        If the concessionaire and successor agree upon terms and conditions of ~~such~~ the transfer,  
17        which shall be agreed to in writing within a time period to be set by the commission, but no  
18        longer than six months, the commission may approve and consent to ~~such~~ the assignment.

19        If there is no agreement in writing within ~~such~~ the specified period of time, ~~then~~ the  
20        commission, if the concessionaire still wants to sell, transfer, convey, or assign its interest in  
21        ~~such~~ the leasehold, shall ~~then proceed to~~ provide for another prospectus as provided in this  
22        section, ~~herein,~~ and follow ~~all of~~ the same procedures set forth in this section until ~~such time as~~  
23        a successor concessionaire and present concessionaire agree upon terms and conditions of ~~such~~  
24        a transfer but for no longer period of time than the duration of the leasehold.

Section 108. That § 41-17-23 be amended to read as follows:

41-17-23. It is a Class 2 misdemeanor for any person owning ~~or having in his charge or possession,~~ having charge of, or possessing any horses, mules, cattle, goats, sheep, swine, or other ~~like~~ domestic grazing animals, to cause or permit such animals to enter or graze upon any state park or game ~~preserves~~ preserve within this state, except on permits issued by the Department of Game, Fish and Parks or other governing body.

Section 109. That § 41-18-4 be amended to read as follows:

41-18-4. Notice of a hearing pursuant to § 41-18-3 shall be given by the county auditor by publication in a legal newspaper published in such county once a week for at least two successive weeks ~~prior to said hearing, such notice to~~ before the hearing. The notice shall specify the time and place of ~~such~~ the hearing and ~~to~~ shall identify the property affected. If ~~such~~ the property cannot be described as a government subdivision, ~~it shall be sufficient that the same~~ the property shall be described in the petition and in the notice in general terms with reasonable certainty.

Section 110. That § 41-18-5 be amended to read as follows:

41-18-5. If the county commissioners ~~shall be~~ are satisfied that it ~~will be to~~ is in the best interest of the public that property described in a petition under § 41-18-3, or any part ~~thereof~~ shall of the property, is to be acquired for the purpose of a public park, ~~they~~ the commission shall cause an accurate survey to be made by a registered land surveyor; and a plat to be made and filed in the office of the register of deeds ~~and~~. The commission shall proceed to acquire the property, ~~in case if~~ if it is not necessary to borrow the money ~~therefor~~ for acquiring the property, as provided in §§ 41-18-11 to 41-18-15, inclusive.

Section 111. That § 41-18-10 be amended to read as follows:

41-18-10. ~~In case~~ If bonds of the county ~~shall be~~ are issued for the purpose of acquiring or

1 improving a public park and ~~the creating of~~ bodies of water ~~therein in the park~~, the proceeds of  
2 ~~said the~~ bonds shall be deposited with the county treasurer in a fund to be designated as a county  
3 park fund and shall be paid out only upon warrants of the county auditor on ~~said the~~ fund issued  
4 under the orders of the board of county commissioners.

5 Section 112. That § 41-18-11 be amended to read as follows:

6 41-18-11. The board of county commissioners ~~shall have authority to~~ may acquire and  
7 condemn private property within the county for the uses and purposes of public parks and bodies  
8 of water ~~therein whenever in the county if~~ and to the extent that ~~same shall be~~ the property is  
9 deemed necessary for such purposes ~~and to~~. The board may pay for all property acquired and  
10 all property damaged, and the expense of creating bodies of water ~~therein on the property~~, out  
11 of any money in the county general fund within the limitations fixed in § 41-18-12.

12 Section 113. That § 41-18-12 be amended to read as follows:

13 41-18-12. Except as provided in § 41-18-13 the board of county commissioners ~~shall not~~  
14 ~~expend~~, in acquiring the property for any one park or project and creating bodies of water  
15 ~~therein in the park or project~~ under the provisions of this chapter, may not expend a total amount  
16 exceeding one dollar per thousand dollars of taxable valuation on the taxable valuation of the  
17 property in the county for the preceding year.

18 Section 114. That § 41-18-13 be amended to read as follows:

19 41-18-13. ~~In case the county shall borrow money and issue~~ If the county borrows money and  
20 issues bonds for the purpose of a park or project and creating bodies of water ~~therein in the park~~  
21 or project, the expenditure ~~shall not be~~ is not limited to one dollar per thousand dollars of  
22 taxable valuation on the assessed valuation of the property within the county for the preceding  
23 year.

24 Section 115. That § 41-18-14 be amended to read as follows:

1        41-18-14. If an agreement ~~can be~~ is reached with the owner of the property or any portion  
2        ~~thereof~~ of the property for a reasonable price for ~~said the~~ the property, the board of county  
3        commissioners shall pass a resolution for the purchase of ~~said the~~ the property or any portion  
4        ~~thereof. Such of the property. The~~ resolution shall contain a general description of ~~said the~~ the  
5        property, including the acreage and the price for which the ~~same property~~ property is to be purchased.

6        Section 116. That § 41-18-15 be amended to read as follows:

7        41-18-15. ~~When~~ If the board of county commissioners ~~shall deem~~ deems it necessary to take,  
8        damage, or condemn any private property or any portion ~~thereof of the property~~ of the property for any of the  
9        purposes mentioned in § 41-18-11, ~~it the board~~ the board shall by proper resolution declare the necessity  
10       of ~~such the~~ the taking or damaging, stating the purpose and extent ~~thereof of the taking or~~ of the taking or  
11       damaging.

12       Section 117. That § 41-18-16 be amended to read as follows:

13       41-18-16. If upon condemnation proceedings, a judgment ~~shall be entered which is entered~~ is entered  
14       that will cause the limitation in § 41-18-12 to be exceeded on a particular park or project, or  
15       ~~which if the board of~~ if the board of county commissioners ~~shall deem~~ deems the judgement excessive, the  
16       costs of the proceeding including a reasonable attorney's fee for the owner, to be fixed by the  
17       court, shall be taxed to and paid by the county and the proceedings shall be abated and the  
18       judgment canceled.

19       Section 118. That § 41-18-17 be amended to read as follows:

20       41-18-17. ~~In the event that it shall be~~ If it is determined advisable as provided in this chapter  
21       to construct or create any body of water within any county park, the board of county  
22       commissioners may acquire by the same method as provided in this chapter ~~hereinbefore~~  
23       ~~provided, such an~~ an amount or quantity of land surrounding or adjoining ~~said the~~ the body of water  
24       as ~~they may deem advisable, and the board deems advisable. The board may use said the~~ the board deems advisable. The board may use said the land

1 for park purposes or sell the ~~same land~~ or any portion ~~thereof~~ of the land as provided in §§ 41-  
2 18-18 to 41-18-23, inclusive.

3 Section 119. That § 41-18-18 be amended to read as follows:

4 41-18-18. The board of county commissioners ~~shall have power to~~ may grant easements  
5 upon or transfer title to; any part of ~~such~~ any property acquired pursuant to this chapter, suitable  
6 for the creation of a body of water, to the United States government or any branch or department  
7 of the United States government in consideration of ~~such~~ the United States government  
8 furnishing at its own expense the necessary labor and materials or any part ~~thereof~~ of such labor  
9 and materials in connection with the construction or creation of such a body of water within any  
10 county park.

11 Section 120. That § 41-18-19 be amended to read as follows:

12 41-18-19. ~~In the event that~~ If the board of county commissioners ~~decide~~ decides to sell any  
13 lots or tracts surrounding any such body of water or adjoining any portion ~~thereof, they shall~~  
14 ~~first cause such~~ of the body of water, the commissioners shall first cause the land to be surveyed  
15 and platted into lots and blocks and streets or drives. The board of county commissioners ~~shall~~  
16 ~~have authority to~~ may place such restrictions as to the use of ~~such~~ the lots or tracts as ~~they~~ the  
17 board may deem advisable.

18 Section 121. That § 41-18-20 be amended to read as follows:

19 41-18-20. After a survey and platting pursuant to § 41-18-19, the board of county  
20 commissioners shall ~~cause~~ appoint three appraisers ~~to be appointed~~ who shall ~~proceed to~~  
21 appraise ~~said~~ the lots and tracts. The proceeding for the appraisal of ~~said~~ the lots and tracts shall  
22 be the same as provided for the appraisal of the estates of decedents, except that ~~said~~ the  
23 appraisers shall be appointed by the board of county commissioners and the appraisal shall be  
24 filed with the county auditor of ~~such~~ the county.

Section 122. That § 41-18-21 be amended to read as follows:

41-18-21. After the appraisers have, pursuant to § 41-18-20, fixed the valuation of ~~lots and tracts and each thereof~~ each lot and tract, the county, through its board of county commissioners, may sell ~~said the~~ lots and tracts or any portion ~~thereof~~ of the lots and tracts for not less than the appraised value. No lot or tract ~~shall~~ may be sold by ~~said commissioners~~ the board based on any appraisal made more than one year ~~prior to~~ before the date of sale.

Section 123. That § 41-18-22 be amended to read as follows:

41-18-22. In the sale of lots and tracts pursuant to § 41-18-21, the board of county commissioners may designate the terms upon which ~~such the~~ sales may be made and the rate of interest deferred payments shall bear, ~~and make contracts therefor.~~ The board may make contracts for the sale and make conveyance when if the purchaser has fully performed his contract; provided however, that met the terms of the contract. However, the purchaser shall pay at least ten percentum of the sale price must be paid to the county by the purchaser at the time of the execution of the contract of sale, and the total purchase price, with interest thereon must on the purchase price, shall be paid within five years from the date of sale.

Section 124. That § 41-18-23 be amended to read as follows:

41-18-23. ~~All moneys~~ Any money received from the sale of lots and tracts pursuant to § 41-18-21 shall be deposited as follows: ~~when the county shall borrow money and issue~~ provided in this section. If the county borrows money and issues its bonds for the creation of any county park or for creating bodies of water ~~therein in the park~~, the ~~moneys~~ money so received shall be deposited with the county treasurer in a fund known as a county park fund for the purpose of retiring ~~such the~~ bonds upon their maturity and paying the interest on ~~such the~~ bonds. Otherwise, the proceeds from the sale of ~~such the~~ lots and tracts shall be deposited in the general fund.

Section 125. That § 41-18-25 be amended to read as follows:

1        41-18-25. No dance hall ~~shall~~ may be built within one mile of a county park unless by  
2        permission of the board of county commissioners.

3        Section 126. That § 41-19-1 be amended to read as follows:

4        41-19-1. The snowmobile trails fund established pursuant to § 32-5-9.2 is hereby  
5        appropriated for the administration of § 41-19-2 ~~and shall not revert at the close of any fiscal~~  
6        ~~year but.~~ Money in the fund shall accumulate without reversion at the close of the fiscal year.